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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

DATSKOVSKIY, MICHAEL V

ART UNIT PAPER NUMBER

2835

DATE MAILED: 10/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/692,982

Applicant(s)

MICHOUX ET AL.

Examiner

Michael V. Datskovskiy

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/24/2003</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

1. The following rejection is based on the assumption that adjustable computer monitor supports generally can be characterized as belonging to:

Group I, wherein a tilt angle of a monitor inevitably depends on an adjustable height of the computer monitor support (see, for example, US Patent 5,833,183 by Chang);

Group II, wherein a tilt angle of a monitor specifically does not depend on an adjustable height of the computer monitor support (see, for example, US Patent 6,822,857 by Jung et al); and

Group III, wherein a tilt angle of a monitor can be dependable or undependable on an adjustable height of the computer monitor support. In computer monitor supports of Group III a tilt angle of a monitor depends on an adjustable height of the computer monitor support, but also can be manually forcibly changed to compensate an inconvenient tilt angle created by adjusting the height of the computer monitor support (see, for example, US Patent 5,812,368 by Chen et al).

2. Examiner points out, that: Claims 1-12 can be rejected by references belonging to Group I and Group III; and claims 13-18 and 24 are so broad that they can be rejected by references belonging to any of these three groups of computer monitor supports.

Claim Objections

3. Claim 13 is objected to because of the following informalities: Line four comprises a part number "165", which should be eliminated. Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-2, 4-10, 13-15, 17-22 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Watt et al.

Watt et al teach an apparatus 10, Figs. 1-3, for supporting computer monitor 20, the apparatus comprising: a computer monitor base 58, including: a bottom portion 60 for placement on a surface; a link coupled to the bottom portion; and a monitor support member 54 coupled to the link, wherein a tilt angle of the monitor support member is dependent on an adjustable height of the link, wherein the monitor support member 54 is configured to be attached to a computer monitor 20. Watt et al teach furthermore: the tilt angle determines a tilt of the computer monitor, and the height of the link determines a height of the computer. Watt et al also teach that: the apparatus further comprising: a plurality of springs 24d coupled to the link and configured to counter-balance a weight of

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the computer monitor that is attached to the monitor support member (configured to provide spring resistance to the link when the link moves to another position), the tilt angle increases in response a decrease in the height of the link and e decreases in response to an increase in the height of the link. Watt et al also teach that the link comprises a first pair of top and bottom links 24a and 24b, and a second pair of top and bottom links 24a and 24b. Regarding to the claim 14: Claim 14 is rejected over the reference by Watt et al because **PRODUCT-BY-PROCESS CLAIMS ARE NOT LIMITED TO THE MANIPULATIONS OF THE RECITED STEPS, ONLY THE STRUCTURE IMPLIED BY THE STEPS.** MPEP (2113 [R-1] Product-by-Process Claims) states:

"Even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." In re Thorpe, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985). Regarding to the claims 13-15 and 17-22): the method steps are necessitated by the device structure as Watt et al teach it.

6. Claims 1-5, 7-8 and 24 are also rejected under 35 U.S.C. 102(b) as being anticipated by Chen et al (US Patent 5,812,368).

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Chen et al teach an apparatus, Figs. 1-7, for supporting computer monitor 1, the apparatus comprising: a computer monitor base including: a bottom portion 3 for placement on a surface; a link 2 coupled to the bottom portion 3; and a monitor support member 22 coupled to the link 2, wherein a tilt angle of the monitor support member is dependent on an adjustable height of the link, wherein the monitor support member 22 is configured to be attached to a computer monitor 1. Chen et al teach furthermore: the tilt angle determines a tilt of the computer monitor, and the height of the link determines a height of the computer. Chen et al also teach said computer monitor being a liquid crystal display, wherein the tilt angle of said display increases in response a decrease in the height of the link and e decreases in response to an increase in the height of the link 2. Chen et al teach a structure belonging to the group III (see an explanation of the group III provided above). Therefore, when the display is not turned separately from the link 2, its behavior is in compliance with structural limitations of the claims 1-5, 7-8 and 24, (as it is clearly shown in Figs. 5A, 5B and 5D).

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-2, 4-11, 13-15, 17-22 and 24 are also rejected under 35 U.S.C. 102(e) as being anticipated by Chiu (US Patent 6,695,274).

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Chiu teaches an apparatus, Fig. 1, for supporting computer monitor, the apparatus comprising: a computer monitor base, including: a bottom portion 90 for placement on a surface; a link 9 coupled to the bottom portion; and a monitor support member 99 coupled to the link 9, wherein said link 9 comprises a first pair of top and bottom links 41, 51, and a second pair of top and bottom links 42, 52; and wherein a tilt angle of the monitor support member is dependent on an adjustable height of the link. Chiu teaches furthermore: the tilt angle determines a tilt of the computer monitor, and the height of the link determines a height of the computer. Chiu also teaches that: the apparatus further comprising: a plurality of springs 94 coupled to the link 9 and configured to counter-balance a weight of the computer monitor that is attached to the monitor support member (configured to provide spring resistance to the link when the link moves to another position), wherein the plurality of springs comprises: a first spring configured to provide spring resistance to the top link 41 in the first pair of links; a second spring configured to provide spring resistance to the bottom link 51 in the first pair of links; a third spring configured to provide spring resistance to the top link 42 in the second pair of links; and a fourth spring configured to provide spring resistance to the bottom link 52 in the second pair of links. Chiu also teaches said computer monitor support, wherein the tilt angle increases in response a decrease in the height of the link and e decreases in response to an increase in the height of the link. Regarding to the claim 14: Claim 14 is rejected over the reference by Chiu, because **PRODUCT-BY-PROCESS CLAIMS ARE NOT LIMITED TO THE MANIPULATIONS OF THE RECITED STEPS, ONLY**

THE STRUCTURE IMPLIED BY THE STEPS. MPEP (2113 [R-1] Product-by-Process Claims) states that:

"Even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." In re Thorpe, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985). Regarding to the claims 13-15 and 17-22): the method steps are necessitated by the device structure as Chiu teaches it. Chiu teaches a structure belonging to the Group III (see an explanation of the Group III provided above). Therefore, when the display is not forcible turned separately from the link 4, its behavior would be in compliance with all the limitations of the claims 1-2, 4-11, 13-15, 17-22 and 24.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Dichter (US Patent 6,102,353); Sheng (US Patent 5,831,696); Greene et al (US Patent 5,765,797) and Serbinski et al (US Patent 6,766,9940, each of them are being applicable for the rejection of the at least claims 1 and 24 of the instant application.

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael V. Datskovskiy whose telephone number is (571) 272-2040. The examiner can normally be reached on 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynn Feild can be reached on (571) 272-2092. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Michael V Datskovskiy
Primary Examiner
Art Unit 2835

10/05/2005